

HOUSE BILL 636

By Akbari

AN ACT to amend Tennessee Code Annotated, Section 37-1-153 and Section 40-32-101, relative to the expunction of records in juvenile courts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-153(f), is amended by adding the following new subdivision:

() For purposes of this subsection (f), a juvenile record includes all documents, reports, and information received, kept, or maintained in any form, including electronic, by the juvenile court clerk or juvenile court staff relating to a delinquency or unruly case, with the exception of assessment reports under § 37-1-136.

SECTION 2. Tennessee Code Annotated, Section 37-1-153(f)(1), is amended by deleting the language:

Notwithstanding any law to the contrary, any person who is tried and adjudicated delinquent or unruly by a juvenile court may subsequently petition the juvenile court for expunction of all court files and records. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds that the petitioner:

and substituting instead the following:

Notwithstanding any law to the contrary, any person who is tried and adjudicated delinquent or unruly by a juvenile court may subsequently file a motion for expunction of all court files and the juvenile records. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds that the movant:

SECTION 3. Tennessee Code Annotated, Section 37-1-153(f)(1)(A), is amended by deleting the word "and" at the end of subdivision (f)(1)(A)(ii) and adding the word "and" at the end of subdivision (f)(1)(A)(iii).

SECTION 4. Tennessee Code Annotated, Section 37-1-153(f)(1)(B), is amended by deleting the word "petition" and substituting instead the word "motion".

SECTION 5. Tennessee Code Annotated, Section 37-1-153(f)(1)(C), is amended by deleting the language "The juvenile has" and substituting instead the language "Has".

SECTION 6. Tennessee Code Annotated, Section 37-1-153(f), is amended by deleting subdivisions (f)(3) and (f)(4) in their entireties and substituting instead the following:

(3) In any case in which there is successful completion of an informal adjustment without adjudication under § 37-1-110, the juvenile records shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the informal adjustment, of the need to file the motion for expunction after a year of successful completion of an informal adjustment and provide the child with a model expunction motion prepared by the administrative office of the courts. The administrative office of the courts shall create a motion that can be completed by a child and shall be circulated to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(4) In any case in which there is a successful completion of a pretrial diversion pursuant to § 37-1-110, the juvenile record shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the pretrial diversion, of the need to file the motion for expunction after a year of successful completion of the pretrial diversion and provide the child with a model expunction motion prepared by the administrative office of the courts. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(5) In any case in which there is a successful completion of a judicial diversion pursuant to § 37-1-129, the juvenile record shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the judicial diversion, of the need to file the motion for expunction after a year of successful completion of the judicial diversion and provide the child with a model expunction motion prepared by the administrative office of the courts. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(6) In any case that is dismissed, excluding a case dismissed after successful completion of an informal adjustment, pretrial diversion, or judicial diversion, the juvenile record shall be expunged by the juvenile court as a part of the court's order of dismissal, without the filing of a pleading for expunction, and at no cost to the child.

(7) A motion for expunction may be filed prior to the one-year period outlined in subdivisions (f)(3), (f)(4), and (f)(5). If the motion is filed, the court may order all or any portion of the requested expunction if the court finds by clear and convincing evidence that the petitioner has successfully completed the informal adjustment or diversion and has made such an adjustment of circumstances that the court, in its discretion, determines that expunction serves the best interest of the child and the community.

(8) The order of expunction, the original delinquent or unruly petition, and the order of adjudication and disposition under subdivisions (f)(1)-(7) shall be sealed and maintained by the clerk of the court in a locked file cabinet and kept separate from all other records. In courts that maintain a case management system capable of expunging a record and only allowing access to the system administrator, paper copies need not be maintained. The sealed orders and petition shall not be released to anyone except at the written request of the person whose records are expunged or in response to an order

of a court with proper jurisdiction. Any person whose records are expunged under subdivisions (f)(1)-(7) shall be restored to the status that the person occupied before arrest, citation, the filing of a juvenile petition, or referral. Once a person's juvenile record is expunged, the person shall not be held criminally liable under any provision of state law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such record or arrest in response to any inquiry made of the person for any purpose.

SECTION 7. Tennessee Code Annotated, Section 40-32-101(a)(4), is amended by deleting the subdivision in its entirety and substituting instead:

(4) For purposes of this section, "court" includes any juvenile court exercising juvenile court jurisdiction over an adult who is charged with an offense that was committed when the person was eighteen (18) years of age or older.

SECTION 8. Tennessee Code Annotated, Section 40-32-101(f)(4), is amended by deleting the subdivision in its entirety.

SECTION 9. This act shall take effect July 1, 2017, the public welfare requiring it.